

The administration is fully aware it violated Federal law in failing to timely notify Congress of its intentions. We know this because the White House has contacted some of my colleagues on the Select Committee on Intelligence and apologized—actually apologized—for failing to notify them in advance; in other words, apologized for not following the law.

According to press reports the White House said the failure to make notification required by law was “an oversight.” An oversight? What happened is not an oversight. An oversight is what happens when you forget to send a thank-you note for a birthday gift. This was not an oversight. In other words, it is extremely difficult to view this as anything but a deliberate attempt to leave Senators in the dark. You don’t simply forget to meet your legal obligations to notify Congress, and it is not as if this was some obscure provision of the law nobody knew anything about. This has always been a very big deal. Not only did the White House have an obligation to notify Congress, but the White House had previously promised that it would in fact comply with the law.

On June 21, 2013, at the White House press briefing, Press Secretary Jay Carney promised that the administration “would not make any decision about the transfers of any detainees without consulting with Congress and without doing so in accordance with U.S. law.”

It is perfectly clear the administration was aware of its duties under the law and made a calculated and deliberate decision to ignore them. The President more or less admitted this when he recently explained at a press conference in Poland that he saw an opportunity he had to take immediately because “we were concerned about Sgt. Bergdahl’s health.”

I am sick and tired of the approach this administration takes toward its legal obligations under the law, and that is why I wrote to the Attorney General in January of this year concerning some statements the President made in the State of the Union Address, hinting that he intended to take unilateral action using executive orders.

In the letter I wrote to the Attorney General, I asked him to direct the Justice Department’s Office of Legal Counsel to publicly disclose its opinions and conclusions concerning the lawfulness of executive orders issued by the President.

Here is where Mr. Kadzik comes in. In May he declined my request, citing again his overbroad and legally unsupported claims of executive privilege.

It is not without good reason that the former executive editor of the New York Times—by the way, an outlet that is not exactly an aggressive critic of the President—called this White House the most secretive she ever covered.

So let me renew my request to the Attorney General regarding the publication of opinions from the Office of Legal Counsel. Frankly, I think my request is all the more important now that we have seen the administration’s flagrant disregard for Federal law in the matter of the Taliban prisoner deal. I am, therefore, asking the Attorney General to direct the Office of Legal Counsel to make public any opinions or legal analysis concerning the lawfulness of the transfer of the Taliban commanders without compliance with section 1035 of the National Defense Authorization. But given this Department’s track record, I am not going to hold my breath that that request will be honored.

I will sum up by saying this: Mr. Kadzik’s nomination is a perfect example of the contempt that this—the self-professed most transparent administration in history—has for congressional oversight authority.

Let me be clear to my colleagues on the other side of the aisle. One day you folks might be in the minority or the administration might be controlled by the Republican Party. If a Republican administration ignores your oversight request, how can you complain, if you don’t stand up today, when the shoe was on the other foot? If you support this kind of stonewalling now by supporting this nominee, it will come back to bite you, and, of course, you will deserve it. I plan to be around here to remind you of that.

I will vote against this nominee and urge my colleagues to do the same.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KING). The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE

Mr. COATS. Mr. President, last week, the Senate confirmed Sylvia Burwell as our new Secretary of Health and Human Services. She is now the administration’s main implementer and representative of ObamaCare. She is its new face and will be its primary salesperson to the American people. I think the President made a competent choice, and I supported her confirmation. But I would be remiss if I did not mention or bring to light the difficult job she has ahead of her.

From its botched website to ever increasing premiums, to canceled health insurance plans, ObamaCare has been and remains a complicated mess of broken promises and confusing implementation. I was back home in Indiana last weekend and the weekend before that, and ObamaCare, along with complaints about overregulation, remain the top two issues on people’s minds. On Friday, I was in DeKalb County and Noble

County up in northeast Indiana meeting with representatives of those two counties and communities and across the spectrum of people engaged in various business enterprises—housewives, small businesses, big businesses, elected officials, et cetera. In each of those discussions, as I went across those two counties, as I said, overregulation and ObamaCare were No. 1 and No. 2, or vice versa, on everyone’s mind. It continues to remain on their minds because they see this as a very complicated and messy intrusion into their individual lives in terms of their ability to run their businesses. For many, it is not a question of ObamaCare not hurting them, but how it has hurt them and their concerns about how it is going to hurt them in the future.

The President promised us that this plan—quote “will lower the cost of health care for our families, our businesses, and our government.” Let me repeat that. The President said that ObamaCare would lower the cost of health care—which it hasn’t—for our families, our businesses, and our government.

That is not what I have heard as I talk to people across the State of Indiana. What I hear from Hoosiers is their premiums have increased, they have higher health care costs, their deductibles have risen dramatically, their copays have risen, and they have fewer provider options. Remember what the President said: If like your doctor or your health plan, you can keep it, period. That is not the case, and I hear that from hundreds of Hoosiers as I travel around the State.

Let me speak about a specific story from a constituent, Jeremy, from Randolph County, who said this:

My plan for my wife and two kids, ages 2 and 5, just increased \$150 to \$615 per month. We cannot afford this massive hike!

He went on to say: Something must be done to lower these plans because we are seriously going to think about not being able to have insurance for the first time since college because I simply can’t afford it. It is unaffordable.

The ACA, the so-called Affordable Care Act, has been called unaffordable by so many Hoosiers—and I suspect that is true all around the country—that it ought to be the unaffordable care act and not the Affordable Care Act.

I don’t know how many stories we have to bring to the floor of the Senate before my colleagues understand and realize this plan is faulty to the point that it needs to be replaced. It is deeply and fatally flawed at its very core.

I know the majority leader came to the floor and said none of these stories we have related are true. That is like telling Jeremy he doesn’t exist.

I don’t think he made this up: My plan for my wife and kids has just increased \$150 a month to \$615 a month. It is unaffordable. Americans across the country are repeating these stories. They are not made up. It is not something Republicans sits around and

write in the back room and sends out that says: Here, say this, so we can repeat it on the floor of the House of Representatives or the Senate floor. These are concerned citizens sending by the thousands emails, phone calls, tweets, and any other means of communication. They are speaking to us directly when we go back home, whether I am in the grocery store buying a quart of milk, picking up a newspaper at the gas station, just speaking to people on the street, or when I sit down with business people. We have invited them to various small towns in Indiana. As I said, these stories that are coming from real people I represent—and they sent me here to represent them—is the impact of the health care plan that has been proposed by the President and now is being implemented. So all of the promises that were made early on—but it wasn't in force—have now been proven to be untrue.

Don't just take my word for it. Look at the headlines. Reuters, which I don't think is an arm of the Republican Senatorial Committee or the Republican National Committee, and is an independent newspaper says: "U.S. says 2.2 million ObamaCare enrollees have data problems."

CNBC—the last time I heard they weren't making contributions to the Republican Party either: "Seven in 10 people say ObamaCare had bad or zero impact on U.S." Either nothing—no impact or bad impact—that is 70 percent.

Indianapolis Business Journal, to which I pay attention, and an independent organization: "Indiana's ObamaCare rates for 2015 all over the map."

People can't figure out how much they are going to have to pay next year, but they have figured out one thing. It is going to be more than they paid last year.

Remember the statement "premiums won't go up?" It won't go up a penny?

I think many of us think it is time to start over and replace ObamaCare with real health care solutions. Republicans have offered a multitude of possibilities of suggestions and proposals, every one of which has been turned down by the President or not allowed to be brought to the floor by the Senate majority leader.

There are those who say: What would you do? Why don't you suggest something? We have tried our very best to bring forward packages of reforms, to reach across the aisle and say, if you will work with us, we will try to fix some of these problems. We think we should repeal it and start over because we don't think it is the right model for health care, to address the solution of providing people in this country with adequate health care at a reasonable cost.

So changing the face of ObamaCare by just putting in a new Secretary of Health and Human Services will not change this law's negative impact on

Hoosiers such as Jeremy. I wish it would, but, obviously, it won't. It will not change this disaster of a law into what it should be: Better health care for all Americans. We are all committed to that goal, but we are simply saddled with a piece of legislation that was very poorly drafted, that was rushed through without any support or comments from those of us on the other side of the aisle.

I wasn't here at the time. One of the reasons I ran and came back was to try to address what I thought was legislation taking us down a road to a dysfunctional health care system, with less quality, less access, less choice, less competition.

Is there a need to reform this current health care system? Yes. Are there solutions that are better than what has been put before us? Yes. I wish we could summon the support and the will of those in this body to begin addressing that very problem.

Mr. President, I see other colleagues on the floor, and I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

GUANTANAMO BAY DETAINEES

Mr. CRUZ. Mr. President, I rise today to raise an issue that has been of growing concern to the American people: the exchange of the so-called Taliban five—five terrorist detainees from Guantanamo—in exchange for Sergeant Bowe Bergdahl.

Let me say from the outset, this is not about Sergeant Bergdahl. The circumstances under which he became a prisoner of the Taliban is an issue for the Army. There was an investigation into this matter in 2010, and hopefully the Army will be able to bring clarity to that situation soon. What I wish to speak about today is keeping the American people safe from the terrorists who attacked us on September 11, 2001, resulting in the deaths of 2,977 innocent people.

The Taliban five are among the worst of the worst. They were all high-level officials in the Taliban regime who gave aid and support to Al Qaeda in Afghanistan in the period leading up to the 9/11 attacks. These five were designated "high" risk by the Guantanamo Review Task Force convened in 2009 on the orders of President Obama, whose report was published on January 22, 2010. Two of the five are wanted by the United Nations for war crimes against Afghan civilians.

Khairullah Khairkhwa, for example, was described in his GTMO case file as "a hard-liner in Taliban philosophy" with "close ties to Osama bin Laden." Mohammad Fazl was second in command of the Taliban army in 2001. These were not junior-level players.

Capturing these five men was a priority when our troops participated in the liberation of Afghanistan from the Taliban in 2001, where our sons and daughters bled and died to free Afghanistan and to exact punishment on those

who carried out a horrific terrorist attack on the United States of America. We cannot know for sure how many American soldiers paid the ultimate price to capture these five senior terrorists.

Even as many other detainees at GTMO have been released, up until now, these five have been considered too dangerous to let go. Given the level of threat they represent, any proposal to release them should be of the utmost seriousness. Unfortunately, by all indications the administration's release treated their threat as anything but serious.

Americans need to know how the Obama administration thinks it has made our Nation safer by negotiating with terrorists to release these five dangerous terrorist leaders. Until President Obama can make his case and convince the American public that this swap was in our national interests, prudence dictates that all further transfers and releases from Guantanamo Bay should be off the table.

Unfortunately, there have been no answers from this administration on how this deal furthers the national security interests of the American people or why the deal was so urgent that the administration refused to comply with its legal obligation to inform Congress 30 days before the transfer. Instead, the administration has vilified those who would raise questions about it as somehow not being concerned about securing the return of our troops. That attack—that slur—shouldn't even be dignified by a response, particularly given what has been publicly admitted.

President Obama has publicly admitted that there is "absolutely" a chance of the Taliban five returning to the battlefield and attacking Americans.

Indeed, the current Taliban leadership has announced that from their perspective this deal is so good for them that they should now prioritize kidnapping other Americans. For example, last Thursday one top Taliban commander told Time magazine—and this is a quote—"It's better to kidnap one person like Bergdahl than kidnapping hundreds of useless people. It has encouraged our people. Now everybody will work hard to capture such an important bird."

This deal puts every soldier, sailor, airman, and marine—every man and woman standing up to defend this Nation—in jeopardy.

The chair of the Senate Intelligence Committee, Senator DIANNE FEINSTEIN, has publicly said that she has seen "no evidence" that Sergeant Bergdahl was under urgent threat in recent weeks or months.

All of these admissions together raise serious and legitimate concerns about the circumstances of the release of the Taliban Five, and they also make clear that the administration should stop